

### **REMARKS**

Applicant has carefully reviewed the Office Action mailed 11/13/2003. With this Response, Applicant has canceled claims 25 and 32, and amended claims 26-31 and 33. Claims 35-48 are newly presented. Claims 26-31 and 33-48 are pending in this application. It is noted that Applicant has amended and cancelled the above-identified claims solely to advance prosecution of the instant application and to obtain allowance on allowable claims at the earliest possible date. Accordingly, no admission may be inferred from the amendments of claims herein. Applicant expressly reserves the right to pursue the originally filed claims in the future.

In the office action, claims 33-34 were rejected under 35 U.S.C. 103(a) as being unpatentable over Guhl et al. (U.S. Patent 6,463,706) in view of Tremblay (U.S. Patent 5,345,734). Tremblay discloses a window assembly consisting of a pair of glass sheets 12 and 14 arranged in a spaced parallel relationship to one another and forming an air space 15 therebetween (column 2, lines 1-14). The window assembly also includes a rectangular spacing unit 16 having an inner face 18 and an outer face 20 (column 2, lines 14-16). It is necessary to drill holes in the spacing unit of window assembly so that gas may be injected from one hole between the glass sheets and air may exit from a second hole (column 2, lines 25-28). A sealing device 10 is provided to be inserted into these holes after the gas has been injected (column 2, lines 31-32).

Figure 1 of Guhl et al. shows a typical insulating glass unit 10. This insulating glass unit includes a first glass pane 11 that is sealed to one end of a spacer 12 and a second glass pane 16 that is sealed to the other end of spacer 12. Guhl et al. teach that prior art fenestration units have a number of problems. In the first column of the patent, Guhl et al. list three of these purported problems. First, the manufacturing involves two operations; the manufacture of an IGU

including a spacer and the placing of the IGU in a sash. “This dual operation process incorporates significant cost into the fenestration unit.” (Column 1, lines 50-52.) Second, this dual operation involves shipping glass in the form of insulating glass units. “Such a dual operation process creates greater potential for glass breakage and the IGU’s take up more shipping space than the transport of individual glass panes.” (Column 1, lines 54-56.) Third, “despite efforts to minimize thermal conductivity through the spacer 12, there continues to be significant heat loss through the spacer 12.” (Column 1, lines 57-59.)

Under 35 U.S.C. 103(a), “[a] patent may not be obtained ... if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” In the instant case, the ordinarily skilled artisan would not have been motivated to combine the teachings of Tremblay and Guhl et al. to yield Applicant’s claimed invention because Guhl et al. expressly teach away from fenestration units including spacers. For this reason, Applicant respectfully submits that newly independent claim 33 is now in condition for allowance. Claims 26-31 and 34 depend from claim 25 and recite additional limitations, Applicant respectfully submits that these dependent claims are also in condition for allowance.

Applicant has taken this opportunity to submit new claims 35-48. Applicant respectfully submits that these new claims are also in condition for allowance.

In light of the above, Applicant respectfully submits this application is in condition for allowance and courteously requests prompt notice of the same. If a telephone conference would be of assistance, please contact the undersigned practitioner at 612/492-7000.

Respectfully submitted,



Allen W. Groenke  
Registration No. 42,608

Customer No. 22859  
Fredrikson & Byron, P.A.  
4000 Pillsbury Center  
200 South Sixth Street  
Minneapolis, MN 55402-1425 USA  
Telephone: (612) 492-7000  
Facsimile: (612) 492-7077

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Stacy Bickel

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